

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10724 of 2024

Arising Out of PS. Case No.-517 Year-2023 Thana- Excise P.S. District- Samastipur

Abhishek Kumar @ Abhisek Kumar Raj @ Abhisek Raj son of Late Deen Dayal Sah @ Late Dindayal Sah Village- Kashipur Ps- Samastipur Town Dist- Samastipur A/P- Village- Soneversa Chawk Ps- Samastipur Muffasil Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mahendra Pratap

For the Opposite Party/s : Ms. Pushpa Sinha

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

2 29-02-2024 1. Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Section 30(a) of the Bihar Excise Act.

3. Learned counsel for the petitioner submits that the petitioner has antecedent of one case and allegation is of recovery of 2.250 liters of liquor from possession of Dinesh Sah, 14.340 liters of liquor from the house of the petitioner and 13.830 liters from the terrace of Ranjan Rajak.

4. Learned counsel for the petitioner submits that the petitioner was not arrested from the spot as such nothing was recovered from his conscious possession. It is also submitted that after the amendment in the Excise Act in the year 2018, the concept of deemed possession and presumed offender has been



done away with. It is next submitted that house is a joint family property, as such, it cannot be alleged with certainty that it was the petitioner who had kept the liquor in the house or the liquor kept in the house was within his knowledge. It is further submitted that he came to be implicated based on the confessional statement of co-accused in police custody which does not have any evidentiary value.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Samastipur Excise P.S. Case No. 517 of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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